Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of	)	
	)	
Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers	)	CC Docket No. 00-256
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
Access Charge Reform for Incumbent Local Exchange Carriers Subject to Rate-of-Return Regulation	)	CC Docket No. 98-77
	)	
Prescribing the Authorized Rate of Return For Interstate Services of Local Exchange Carriers	)	CC Docket No. 98-166

COMMENTS OF QWEST COMMUNICATIONS INTERNATIONAL INC. ON THE MAG PLAN FOR REGULATION OF INTERSTATE SERVICES OF NON-PRICE CAP INCUMBENT LOCAL EXCHANGE CARRIERS

Qwest Communications International Inc. ("Qwest") respectfully submits these comments in response to the Federal Communications Commission's ("Commission") *Notice of Proposed Rulemaking* in the above-captioned docket.[1/] Qwest approaches this docket with a range of experience that gives it a broad and deep understanding of the interests of each of the industry segments that the proposed Multi-Association Group ("MAG") plan would affect.[2/] Qwest is an interexchange carrier (or "IXC") that must pay access charges, contribute to universal service support, and pass some or all of these costs to its customers. At the same time,

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[1/] *See Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers*, CC Docket Nos. 00-256, 96-45, 98-77, 98-166, *Notice of Proposed Rulemaking*, FCC 00-448, rel. Jan. 5, 2001 ("*NPRM*"). The summary of the *NPRM* was published in the Federal Register on Jan. 25, 2001.

Qwest is also both an incumbent and competitive local exchange carrier ("LEC") that *receives* access charges and both receives and contributes to universal service support. Indeed, like the proponents of the MAG plan, Qwest provides local exchange services to many rural customers and understands from experience the unique costs and practical difficulties of providing such services. Because of these varied perspectives, Qwest believes that it brings to this proceeding a balanced view that recognizes the legitimate interests of each of the affected players.

Qwest supports some key elements of the MAG plan. For example, Qwest agrees with the proposal to increase the subscriber line charge ("SLC") for non-price cap LECs to the levels applicable to price cap carriers. Such an increase would be a laudable step toward the Commission's overall goal of shifting costs to the parties that cause those costs to be incurred. In addition, Qwest backs the MAG plan's reduction over time of per-minute access rates to help eliminate implicit subsidies in the rate system. Qwest also agrees that the rate-of-return docket should be closed, leaving the rate-of-return at 11.25%. More generally, Qwest supports the plan's professed goal of moving toward an incentive-based regulation system in which carriers are rewarded for increased efficiency and productivity.

Notwithstanding its support of these elements, Qwest does not believe that the plan as a whole, at least as currently constituted, should be adopted. The plan fails to provide some crucial details about its suggested changes to the access rate structure and universal support mechanisms -- particularly the creation of the new rate averaging support subsidy. But it seems clear that the proposed new system would unjustifiably create significant universal support burdens for consumers in order to enable rate-of-return carriers not only to maintain, but to increase, their access and universal service revenue per line in the absence of any growth in

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2/ Petition for Rulemaking of the LEC Multi-Association Group, filed Oct. 20, 2000 (herein demand. Moreover, the plan apparently would expand universal service support to advanced services, a potentially costly decision with broad ramifications that should be made, if at all, in an industry-wide proceeding. Finally, the plan's proposed rules for IXC rates both fail to recognize that the Commission no longer regulates those rates and are, in any event, unnecessary to protect consumers.

I. THE COMMISSION SHOULD NOT ADOPT WHOLESALE THE MAG PLAN'S PROPOSED REVISIONS TO THE ACCESS RATE STRUCTURE AND UNIVERSAL SERVICE SUPPORT MECHANISMS

The MAG plan proposes several revisions to the current access charge rate structure and universal service support mechanisms. Despite certain positive steps in the proposal, such as the reduction in per-minute access rates and the increase in SLCs, the proposal suffers from at least two fundamental flaws: (1) the plan would unjustifiably *increase* the access and universal service revenue per line that rate-of-return carriers receive; and (2) the plan provides none of the crucial details necessary to understand how it would affect the required size of the Universal Service Fund ("USF"), the concomitant amounts that consumers would have to pay as a result of the plan, or any of the requirements as to how the additional USF contribution and Rate Averaging Support (or "RAS") would be targeted and used.

A. The MAG Plan Unjustifiably Increases The Per Line Access Charge And Universal Service Revenue That Rate-of-Return Carriers Would Receive

To its credit, the MAG plan calls for a reduction in access rates over time. However, unlike the Coalition for Affordable Local and Long Distance Service ("CALLS") plan after which it is allegedly modeled, the MAG plan does not call for a reduction in the amount of support (through access charges and universal service funding) per line. To the contrary, the plan is designed not only to maintain the current revenue per line, but to *increase* it even when

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referred to as the "MAG petition" or "MAG plan"). *And see NPRM* at Appendix A.

demand stays constant. Qwest cannot support such a result and believes that any reform plan must reduce the aggregate access charge and universal service revenue per line.

As Qwest understands the proposed MAG plan, although per-minute access rates would be lowered, MAG participants would receive additional revenues through (1) higher SLCs, (2) a new access subsidy mechanism called Rate Averaging Support, and (3) the elimination of the cap on high cost loop support. Moreover, the aggregate revenue carriers obtain through these various support mechanisms would increase annually by the rate of inflation. The end result appears designed to ensure that MAG participants would actually receive more access and universal service subsidies per line than they do today. By contrast, under CALLS, price cap carriers had their aggregate access revenue decreased by $2.1 billion during the first year of the plan (even taking into account the increase in SLCs).[3/] Qwest itself saw a reduction of over $200 million. Moreover, the CALLS plan capped explicit universal service support for interstate access at $650 million and targeted that amount to support common line rates in high cost areas.[4/] The failure of the MAG plan to cause a comparable reduction in access revenue, to put a cap on universal service support, and to explicitly target the use of that support -- and instead to increase the revenue per line from access charges and universal service support -- cannot be justified.

Unlike the structure that has been in place for price cap LECs, the proposed MAG rate structure does nothing to ensure that cost-reducing gains made from increased productivity and advances in technology are shared with customers of the MAG members. Yet the average

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3/ *See Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers*, CC Docket Nos. 96-262 and 94-1, *Sixth Report and Order, Low-Volume Long-Distance Users*, CC Docket No. 99-249, *Report and Order*, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Eleventh Report and Order*, 15 FCC Rcd. 12962, 13023 ¶ 146 (*CALLS Order*), *pets. for review pending, Texas Office of Public Util. Counsel, et al. v. FCC*, 5th Cir. Nos. 00-60434 (and consolidated cases) (2000).

4/ *Id.* at 12975-76 ¶ 32.

National Exchange Carrier Association ("NECA") per minute access rates have decreased substantially over the last few years for rate-of-return carriers, which almost certainly is due to productivity gains. The MAG plan proponents have offered no reason why such productivity gains will suddenly stop. Thus, the proposed rate structure would have the perverse result of accruing all the benefits of such gains to incumbent rate-of-return LECs, while at the same time increasing the access and universal service support costs that IXCs, other LECs, and their customers must bear.

B. The MAG Plan Fails To Provide Critical Information Concerning The Magnitude Of The Increased Universal Service Burden It Would Impose On Consumers

The MAG plan would make up much of the revenue lost from the reduction in per minute access rates through the RAS. Yet the plan is conspicuously silent about the amount of revenue that would be lost from access charges and the consequent size of the RAS, the effect the RAS would have on the required size of the USF, and other crucial details. Moreover, as the Commission observes, the plan does not "place a ceiling on the proposed new access subsidy, RAS."[5/] As a result, the precise effects of this new subsidy are difficult to gauge. The Commission should not even contemplate setting up such a subsidy without developing a complete record on these basic, yet critical, facts.

Even in the absence of details, it is apparent that one effect of the MAG plan, and in particular the creation of the RAS, will be to increase the universal service funding burden on IXCs, other LECs, and all of their customers. IXCs and LECs already contribute an amount equal to almost 7% of their interstate and international end-user revenues for universal service support today; that contribution is a cost of business that is recovered from their customers. The Commission must be extremely cautious about taking any steps that would increase this already substantial burden on consumers. Yet the MAG plan, as presented in the petition, asks the Commission to take a leap of faith without providing even a guess as to what effect the plan will have on universal service burdens, imposing an overall cap on support, or targeting the use of the additional support. The Commission must develop a far more detailed record on these crucial issues before it can properly evaluate the plan.

II. THE COMMISSION SHOULD NOT USE THE MAG PLAN AS A VEHICLE FOR EXTENDING UNIVERSAL SERVICE SUPPORT TO ADVANCED SERVICES

Qwest shares with the Commission and the sponsors of the MAG plan the desire to promote the deployment of advanced services to rural areas. However, Qwest is concerned that the MAG plan appears to envision using universal service funding for the support of advanced services. For example, the proponents of the MAG plan attempt to justify elimination of the cap on high cost loop support on the theory that such a step would -- presumably by increasing such support -- lead to greater investments in the deployment of advanced services in rural areas.[6/] Qwest does not support using the MAG plan as the means of expanding universal service support to advanced services for two reasons.

First, this proceeding is not the appropriate forum to make such a decision. The issue whether universal service funding should support advanced services affects all local and interexchange carriers, not just rate-of-return carriers. Thus, any Commission decision on this issue should be made in a broader industry-wide proceeding examining the appropriate services for universal service support. Indeed, the Commission has already asked the Joint Board to review the definition of "core services" that should be the subject of such support and to issue a

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5/ *NPRM* ¶ 18.

6/ *See* MAG petition at 16.

recommendation as to whether changes are warranted.[7] The Commission should not short-circuit that process in this proceeding.

Second, while promoting the deployment of advanced services in rural areas is a worthy goal, the Commission should bear in mind that any universal service support for investment in such services ultimately will require either reduction in support for other more basic services or an increased USF surcharge on all consumers' bills. In other words, the use of universal service support for advanced services would require significant tradeoffs. As a result, before committing such support, the Commission must be confident that the regulatory incentives will actually lead to the desired result -- deployment of advanced services in rural areas -- and not just impose extra costs on consumers in all areas. It is unclear, however, that the MAG plan as currently constituted provides anything close to that assurance. Indeed, while a regulatory system under which carriers are guaranteed a certain amount of revenue per line might promote investments to increase operational efficiency and thereby reduce costs, it does nothing to encourage new investments in equipment designed to provide new services.

III. THE COMMISSION SHOULD REJECT THE MAG PLAN'S PROPOSED REGULATION OF IXC PRICES

Qwest strongly opposes the proposed pricing rules for IXCs in the MAG plan, particularly the proposed requirement that IXCs pass through any access charge reductions to their customers and the prohibition on IXC minimum monthly charges. The Commission, of course, has found that IXCs are non-dominant carriers and accordingly does not regulate IXC charges generally, but rather relies on competitive market pressures to ensure that rates are reasonable. In addition, the Commission has ordered IXCs to detariff their domestic services and

[7] *Federal-State Joint Board on Universal Service*, CC-Docket No. 96-45, FCC 00-440, rel. Dec. 21, 2000.

will likely do the same for international services soon. Thus, the Commission has no practical or appropriate way to impose the pricing regulations proposed by the MAG. To be sure, in the case of CALLS, AT&T and Sprint agreed to certain pricing restrictions similar to those proposed by the MAG. However, those agreements were *voluntary* and were part of a larger negotiation in which AT&T Corp. and Sprint Corporation participated.[8/] By contrast, here the MAG proposes that the Commission impose such restrictions as a matter of coercive regulation, notwithstanding that the Commission does not regulate IXC rates.

In any event, the MAG's proposed restrictions are unnecessary to promote consumer interests. As the Commission is well aware, the market for IXC services is highly competitive and has been marked by dramatic rate reductions. The operation of the competitive marketplace is clearly preferable to regulatory mandates as the mechanism for determining the appropriate IXC rates if and when IXC costs are reduced as a result of lower access rates. Indeed, the proposed prohibition on all plans with minimum monthly charges actually would *harm* consumers by depriving them of a choice that might be beneficial to them and the IXC (*e.g.*, a plan that, in exchange for a minimum monthly commitment, provided lower per-minute rates). Moreover, to the extent that the Commission is concerned that *rural* customers are not the beneficiaries of competition to the same degree as urban customers, section 254(g) of the Telecommunications Act protects rural customers by requiring that IXC rates for rural subscribers be no higher than rates for subscribers in urban areas.[9/]

8/ *See CALLS Order*, 15 FCC Rcd. at 13067 ¶ 243, 13068-69 ¶ 246.

9/ 47 U.S.C. § 254(g).

CONCLUSION

For the foregoing reasons, although the MAG plan contains some beneficial elements, the Commission should not adopt the plan as a whole and instead should continue regulatory proceedings designed to bring about fair and efficient reform of access rates and universal service support for rate-of-return carriers.

Respectfully submitted,

James T. Hannon

Sharon J. Devine
James T. Hannon
Kathryn Marie Krause
Suite 700
1020 19th Street, N.W.
Washington, DC 20036

QWEST COMMUNICATIONS
INTERNATIONAL INC.

Its Attorneys

February 26, 2001

CERTIFICATE OF SERVICE

I, Richard Grozier, do hereby certify that I have caused the foregoing **COMMENTS OF QWEST COMMUNICATIONS INTERNATIONAL INC. ON THE MAG PLAN FOR REGULATION OF INTERSTATE SERVICES OF NON-PRICE CAP INCUMBENT LOCAL EXCHANGE CARRIERS** to be filed with the FCC via its Electronic Filing Comment System, and a copy of the **COMMENTS** to be served, via hand delivery on all parties listed on the attached service list.

Richard Grozier
Richard Grozier

February 26, 2001

Michael K. Powell
Federal Communications Commission
8th Floor
Portals II
445 12th Street, S.W.
Washington, DC 20554

Gloria Tristani
Federal Communications Commission
8th Floor
Portals II
445 12th Street, S.W.
Washington, DC 20554

Susan P. Ness
Federal Communications Commission
8th Floor
Portals II
445 12th Street, S.W.
Washington, DC 20554

Harold Furchtgott-Roth
Federal Communications Commission
8th Floor
Portals II
445 12th Street, S.W.
Washington, DC 20554

Sheryl Todd
Accounting – Policy Division
Federal Communications Commission
Room 5-B540
Portals II
445 12th Street, S.W.
Washington, DC 20554

Dorothy T. Attwood, Chief
Common Carrier Bureau
Federal Communications Commission
5th Floor
Portals II
445 12th Street, S.W.
Washington, DC 20554

William Scher
Accounting – Policy Division
Federal Communications Commission
Room 5-B540
Portals II
445 12th Street, S.W.
Washington, DC 20554

Wanda Harris
Accounting – Policy Division
Federal Communications Commission
Room 5-A452
Portals II
445 12th Street, S.W.
Washington, DC 20554

International Transcription
Services, Inc.
1231 20th Street, N.W.
Washington, DC 20036

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